

ASSEMBLY BILL

No. 333

Introduced by Assembly Member Harman

February 10, 2005

An act to amend Section 2025.330 of the Code of Civil Procedure, relating to production of evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as introduced, Harman. Depositions.

Existing law generally requires depositions to be conducted under the supervision of an officer who shall put the deponent under oath. The testimony, as well as any stated objections, is required to be taken stenographically, except as specified.

This bill would require the deposition officer to put the deponent under oath or affirmation and to personally, or by someone acting under the officer's direction and in his or her presence, record the testimony of the witness. The bill also would require the testimony and any stated objections to be taken stenographically by a certified shorthand reporter.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2025.330 of the Code of Civil
- 2 Procedure is amended to read:
- 3 2025.330. (a) The deposition officer shall ~~put~~ *do both of the*
- 4 *following:*
- 5 (1) *Put* the deponent under oath *or affirmation.*

1 (2) *Personally, or by someone acting under the officer's*
2 *direction and in his or her presence, record the testimony of the*
3 *witness.*

4 (b) Unless the parties agree or the court orders otherwise, the
5 testimony, as well as any stated objections, shall be taken
6 *stenographically by a person certified pursuant to Article 3*
7 *(commencing with Section 8020) of Chapter 13 of Division 3 of*
8 *the Business and Professions Code.*

9 (c) The party noticing the deposition may also record the
10 testimony by audio or video technology if the notice of
11 deposition stated an intention also to record the testimony by
12 either of those methods, or if all the parties agree that the
13 testimony may also be recorded by either of those methods. Any
14 other party, at that party's expense, may make a simultaneous
15 audio or video record of the deposition, provided that the other
16 party promptly, and in no event less than three calendar days
17 before the date for which the deposition is scheduled, serves a
18 written notice of this intention to make an audio or video record
19 of the deposition testimony on the party or attorney who noticed
20 the deposition, on all other parties or attorneys on whom the
21 deposition notice was served under Section 2025.240, and on any
22 deponent whose attendance is being compelled by a deposition
23 subpoena under Chapter 6 (commencing with Section 2020.010).
24 If this notice is given three calendar days before the deposition
25 date, it shall be made by personal service under Section 1011.

26 (d) Examination and cross-examination of the deponent shall
27 proceed as permitted at trial under the provisions of the Evidence
28 Code.

29 (e) In lieu of participating in the oral examination, parties may
30 transmit written questions in a sealed envelope to the party taking
31 the deposition for delivery to the deposition officer, who shall
32 unseal the envelope and propound them to the deponent after the
33 oral examination has been completed.